

REMARKS

Applicant has amended the claims 1 and 4. Applicant respectfully submits that these amendments to the claims are supported by the application as originally filed and do not contain any new matter. Accordingly, the Office Action will be discussed in terms of the claims as amended.

The Examiner has rejected the claims 1 through 4 under 35 USC 112, second paragraph, as being indefinite. In view of the above amendments, Applicant respectfully submits that the claims 1 through 4 now comply with the requirements of 35 USC 112, second paragraph.

The Examiner has rejected the claims 1 through 4 under 35 USC 103 as being obvious over Quemin stating that Quemin discloses a make-up composition comprising 0.5-25 wt% pigment such as zirconium oxide, 0.5-40 wt% of an oil phase such as liquid paraffin and 0.01-5 wt% of a non-ionic thickener such as vinyl acetate copolymer and these percentages provide a ratio that overlaps with the present claimed ratio of 1:4:1.

In reply to this rejection, Applicant would like to again point out that Quemin is a make-up composition which comprises a pigment, an oil phase and a non-ionic thickener together with a number of other elements and ingredients in order to make or create the make-up composition. In addition, Applicant respectfully submits that if one were to select percentages for the pigment, oil phase and non-ionic thickener to comply with the ratio of 1:4:1, the results would be 5% pigment, 20% oil phase and 5% non-ionic thickener. Applicant respectfully submits that this is not Applicant's invention and only makes up 30% of the composition. In contrast thereto, Applicant's invention as described at the only full paragraph at page 5 of Applicant's application while consisting of ingredients in a 1:4:1 ratio, actually the composition of Applicant's invention can also be described as 1 kilogram of zirconium oxide, 4 kilograms of liquid paraffin and 1 kilogram of polyvinyl acetate resin. These three elements make up substantially all of Applicant's invention and any other elements contained in the composition comprise less than 1% by weight as is clearly demonstrated in Applicant's claims 2 and 3 and described in Applicant's application at page 4, second and third full paragraphs. As a result, Applicant respectfully submits that Applicant's invention in fact requires 16 wt% zirconium oxide, 66 wt% liquid paraffin and 16 wt% vinyl acetate copolymer. While the weight percentage for zirconium oxide of Quemin may be

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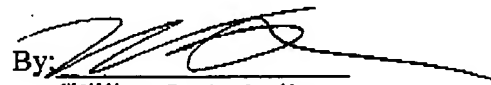
within the percentage of Applicant's invention. Applicant respectfully submits that the liquid paraffin and the vinyl acetate copolymer are not.

In view of the above, Applicant respectfully submits that Quemin does not disclose or suggest each and every element of Applicant's invention as claimed by claims 1 through 4 and in fact contains a make-up composition which at best consists of 5 wt% of pigment, 20 wt% of oil phase and 5 wt% of non-ionic thickener for a total of 30 wt% for these three components and the remainder of the make-up composition, namely 70 wt%, is made up of other elements. As discussed above, in Applicant's invention the three components comprise substantially 100% of the composition. Therefore, Applicant respectfully submits that the claims 1 through 4 are not obvious over Quemin.

In view of the above, therefore, it is respectfully requested that this amendment be entered, favorably considered and the case passed to issue.

Please charge any additional costs incurred by or in order to implement this Amendment or required by any requests for extensions of time to QUINN EMANUEL DEPOSIT ACCOUNT NO. 50-4367.

Respectfully submitted,

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Name

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